IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 80872-M of 2006

DATE OF DECISION : 22.12.2006

Natha Singh

.... PETITIONER

Versus

State of Punjab and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Vikram Agagrwal, Advocate,
for the petitioner.

* * *

Petitioner Natha Singh has filed this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 16.3.2006, passed by Sub Divisional Magistrate, Talwandi Sabo, District Bathinda, whereby he directed the Receiver to deliver possession of the disputed land to respondents No.2 to 5, and the order dated 11.11.2006, passed by Additional Sessions Judge, Bathinda, whereby the revision filed by the petitioner against the said order has been dismissed.

2. I have heard counsel for the petitioner and gone through the impugned orders, passed by the Courts below.

3. In this case, respondents No.2 to 5 purchased 41 kanals 16 marlas of land situated in Village Maisar Khana from Natha Singh, vide two separate sale deeds dated 22.4.1999 and 27.4.1999, for a total consideration of Rs. 7,84,000/-. As per the sale deeds, possession of the land in question was delivered to them by the petitioner. Subsequently, regarding the very same land, police submitted calendra under Section 145 Cr.P.C., on the allegation that there is a dispute about the possession between Natha Singh petitioner and respondents No. 2 to 5 and because of that dispute, there is

apprehension of breach of peace. On the said calendra, vide order dated 28.3.2003, the Sub Divisional Magistrate attached the land in dispute and Naib Tehsildar, Talwandi Sabo was appointed as Receiver, who took possession of the land. This order was challenged in revision, which was allowed and after setting aside the order, the matter was remanded. Again, the Magistrate passed order dated 12.12.2002, but did not pass order for delivery of possession. This order was also challenged in revision, which was again allowed by Addl. Sessions Judge (Adhoc) Fast Track Court, Bathinda, on 6.12.2005 and it was ordered that possession be delivered to the party who has been held to be in possession by the civil court of competent jurisdiction.

4. Undisputedly, the civil suit filed by respondents No.2 to 5 was decided on 23.7.2005 and petitioner was restrained from interfering in their possession over the disputed land. In pursuance of the finding given by the civil court, the Magistrate directed the Receiver to hand over possession to respondents No.2 to 5. Counsel for the petitioner does not dispute the fact that the civil suit filed by respondents No.2 to 5 has been decreed against the petitioner and according to the said decree, the plaintiffs were held to be entitled for possession. Since the petitioner has already sold the land and as per the civil court decree, respondents No.2 to 5 are held to be owners in possession of the disputed land, therefore, in my opinion, the Sub Divisional Magistrate has rightly directed the Receiver to hand over possession of the land to respondents No.2 to 5, who are legally entitled to retain possession of the same, as per civil court decree. I do not find any illegality or infirmity in the orders, passed by the Courts below.

5. Dismissed.

December 22, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**